

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **May 13, 2003**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rezoning petition – Central City Homes, L.P., 717 Madison Street**

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Central City Homes, L.P., has petitioned to rezone .296 acres located at 717 Madison Street, from R-2, Single-Family Residential District, to R-4 (Conditional), Multi-Family Residential District to allow the use of the property as three (3) apartment units. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the *Comprehensive Plan*, which recommends a Traditional Residential Use for the subject property.
- Historically the property had been used as a tourist house with twelve (12) rooms and five (5) bathrooms.
- Petition is compatible with the surrounding land use and zoning in the area.

OTHER INFORMATION: At the Planning Commission meeting on April 23, the petitioner voluntarily offered the following additional proffer:

...

4. The rear of the lot will contain sufficient vegetative buffer to block headlights shining into neighboring properties consistent with CPTED concerns.

PRIOR ACTION(S):

April 23, 2003: Planning Division recommended approval of the rezoning.  
Planning Commission recommended approval (5-1, with one member absent) of the rezoning.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253  
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan
- Narrative

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-2, SINGLE FAMILY RESIDENTIAL DISTRICT TO R-4, (CONDITIONAL), MULTI-FAMILY RESIDENTIAL DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That in order to promote the public necessity, convenience, general welfare, and good zoning practice that 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.\_\_\_\_, which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area from R-2, Single Family Residential District to R-4, (Conditional), Multi-Family Residential District.

The area embraced within the following boundaries . . .

Beginning at a corner marked by an iron pin set on the southwest line of Madison Street between 8<sup>th</sup> Street and 7<sup>th</sup> Street said iron being N 29°58' 24" W 67.50 feet from the intersection of 8<sup>th</sup> Street and Madison Street; thence S 60° 26' 11" W passing iron set at 82.00 feet. A total of 132.00 feet to corner marked by iron set; thence N 29° 58' 24" W 97.50 feet parallel to Madison Street to a corner marked by iron set; thence N 60° 26' 11" E 132.00 feet parallel to 8<sup>th</sup> Street to corner marked by iron set on the southeast line of Madison Street; thence with said southeast line S 29° 58' 24" E 97.50 feet to the beginning and containing 0.296 acres.

. . . is hereby changed from R-2, Single Family Residential District to R-4, (Conditional), Multi-Family Residential District, subject to the conditions setout hereinbelow which were voluntarily proffered in writing by the owner, namely: Central City Homes, L.P., to wit:

1. The structure will be limited to three (3) units.
2. The site will be developed in substantial compliance with the site plan dated March 10, 2003 and revised April 7, 2003.
3. The exterior renovation will be consistent with that in the surrounding neighborhood and with the intent of preserving architectural detail to the greatest extent possible.
4. The rear of the lot will contain sufficient vegetative buffer to block headlights shining into neighboring properties consistent with CPTED concerns.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

087L

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** April 23, 2003  
**Re:** **REZONING: R-2 to R-4 CONDITIONAL at 717 MADISON STREET**

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**I. PETITIONER**

Central City Homes, L.P., 927 Church Street, Lynchburg, VA 24504

**Representative:** Laura Dupuy, Central City Homes, L.P., 927 Church Street, Lynchburg VA, 24504

**II. LOCATION**

The subject property is a tract of .296 acres located at 717 Madison Street.

**Property Owner:** Central City Homes, L.P., 930 Cambria Street, Christiansburg, VA 24073

**III. PURPOSE**

The purpose of this petition is to rezone the subject property from R-2, Single-Family Residential District to R-4, (Conditional), Multi-Family Residential District to allow the use of an existing structure for three (3) apartment units.

**IV. SUMMARY**

- Petition agrees with the Comprehensive Plan, which recommends a Traditional Residential Use for the subject property.
- Historically the property has been used as a tourist house with twelve (12) rooms and five (5) bathrooms.
- Petition is compatible with the surrounding land use and zoning in the area.

**The Planning Division recommends approval of the rezoning petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Traditional Neighborhood use for the subject property. These areas were generally built prior to World War II. Many of the lot sizes, buildings, building heights and setbacks do not conform to the City's current residential zoning standards. The *Comprehensive Plan* recommends further study as to appropriate zoning changes, public investment and community building efforts in these areas.
2. **Zoning.** The subject property was annexed into the City in 1852. The property was zoned for multi-family residential uses until 1978. In 1978 the current zoning of R-2, Single-Family Residential was established and the use of the property as a tourist house became a legal nonconforming use. According to City records the last known utility billing was in August 2000, and the property has remained vacant since that time. Section 35.1-27 (4), Nonconforming Uses, states that "if a nonconforming use of a building ceases for any reason for a continuous period of more than two (2) years or is changed to a conforming use or if the building in which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the standards specified by this ordinance for the district in which such building is located." Since the structure has been vacant for a period of two (2) years, the legal nonconforming use of the property has ceased. The rezoning of the property to R-4 (Conditional), Multi-Family Residential district would allow the three (3) units as requested by the petitioner.
3. **Proffers.** The petitioner has voluntarily submitted the following proffers with the rezoning application.
  - The structure will be limited to three (3) units.
  - The site will be developed in substantial compliance with the site plan dated March 10, 2003 and revised April 7, 2003.
  - The exterior renovation will be consistent with that in the surrounding neighborhood and with the intent of preserving architectural detail to the greatest extent possible.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the use of the existing structure as apartments.

5. **Surrounding Area.** The following items in the immediate area have required City Council action:
- February 10, 1987, the City Council approved the CUP petition of Holy Cross Catholic Church at 710-20 Clay Street to allow the construction of building and parking lot additions.
  - May 08, 1990, the City Council approved the CUP petition of R. E. Sherman at 405 Madison Street to allow the use of an existing structure as a bed & breakfast.
  - September 10, 1991, the City Council approved the CUP petition of Craddock-Terry, Inc. at 1001-1017 Madison Street to allow the construction of parking lots.
  - June 14, 1994, the City Council approved the petition of Joseph & Brenda Sanzone to rezone 707 Clay Street from R-2, Single-Family Residential District to B-1 (Conditional), Limited Business District.
  - June 13, 1995, the City Council approved the CUP petition of Holy Cross Catholic Church at 710 Clay Street to allow the construction of a three (3) story multi-purpose addition.
  - July 11, 2000, the City Council approved the CUP petition of Central Virginia Community Services at 620 Court Street to allow the operation of a substance abuse center.
  - July 9, 2002, the City Council approved the CUP petition of St. Paul's Episcopal Church at 620 Madison Street to allow the operation of a child care facility.
6. **Site Description.** The subject property is bounded to the north by single-family residential uses, to the east by single and two-family residential uses and to the south and west by a mixture of single-family, multi-family residential uses and by vacant land.
7. **Proposed Use of Property.** The purpose of the rezoning is to allow the rehabilitation of the existing structure for three (3) apartment units.
8. **Traffic and Parking.** The City's Traffic Engineer had no comments of concern regarding the rezoning petition. Three (3) additional parking spaces will be required as determined by the Zoning Official. Parking will be provided on a gravel lot at the rear of the subject property.
9. **Storm Water Management.** A storm water management plan will not be required.
10. **Impact.** The current submittal proposes the rezoning of an existing structure and a vacant lot consisting of .296 acres from R-2, Single-Family Residential District to R-4 (Conditional), Multi-Family Residential District to allow the use of the property for three (3) apartments. Historically the property had been used as a tourist house with twelve (12) bedrooms and five (5) bathrooms. The zoning of the property since 1930 had allowed multi-family residential uses until 1978 when the existing R-2, Single-Family Residential zoning was adopted. The property is directly adjacent to an R-4, Multi-Family Residential District. Existing land uses in the area are a mixture of single-family, duplexes, multi-family and public uses.

The property is located between two (2) locally designated historic districts, Court House Hill and Federal Hill. The petitioner has voluntarily proffered that the exterior renovation will be consistent with the surrounding neighborhood and will have the intent of preserving architectural detail to the greatest extent possible. A renovation in this manner will help stabilize the transitional area between the two (2) historic districts and the neighborhood. Landscaping as indicated on the site plan is adequate. The existing hedgerow along the property line will be retained.

The Planning Division is supportive of the rehabilitation and adaptive reuse of vacant structures in the City's older neighborhoods. The *Comprehensive Plan* recommends a traditional residential use for the area and also identifies it as a Neighborhood Conservation Area on the Framework Map. These areas are identified as areas that are in need of further study for zoning changes, public investment and community building efforts. In the case of the subject property the needed changes are particularly evident. In rezoning the property to allow for multi-family residential uses, the property would become nonconforming in terms of setbacks. Section 35.1-23(s), Supplementary Regulations, requires that a multi-family district adjacent to a single-family or two family district have a fifty (50) foot setback and a vegetative evergreen buffer established in the multi-family district. The existing structure will not comply with the required setbacks in the front yard and along the eastern property line. Typically the creation of nonconformity is undesirable, however when dealing with rehabilitation of existing neighborhoods they become acceptable and necessary. The City should pursue zoning amendments for the neighborhood

conservation areas as identified in the *Comprehensive Plan* as soon as it is feasible. These changes should encourage rather than discourage rehabilitation and adaptive reuse of older traditional neighborhoods. The benefits of the rehabilitation will greatly outweigh any negative impacts that may be created by the nonconformity.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on April 1. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
  12. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.
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## VI. PLANNING DIVISION RECOMMENDATION

### **Waiver of 21-day prior submittal:**

1. **That the Planning Commission waive the 21 – day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Central City Homes, L.P. for the property at 717 Madison Street.**
2. **Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Central City Homes, L.P. to rezone .296 acres at 717 Madison Street from R-2, Single-Family Residential District, to R-4 (Conditional), Multi-Family Residential District, to allow the rehabilitation and use of the property for three (3) apartment units.**

This matter is respectfully offered for your consideration.

William T. Martin  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. Robert D. DeJarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineer  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Karl Cooler, Building Official  
Mr. Arthur L. Tolley, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Ms. Laura Dupuy, Petitioner

## VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**  
(see attached map)
2. **Vicinity Proposed Land Use**  
(see attached map)
3. **Site Plan**  
(see attached site plans)
4. **Narrative**  
(see attached narrative)

THESE MINUTES HAVE NOT BEEN REVIEWED NOR APPROVED BY THE PLANNING COMMISSION

Central City Homes, L.P. to rezone approximately .296 acres at 717 Madison Street from R-2, Single-Family Residential District to R-4, Multi-Family Residential District (Conditional) to allow the rehabilitation and use of an existing structure for up to three (3) units.

Mr. Martin addressed the Commission explaining that this property was annexed into the City in 1852 and was zoned for multi-family use. He said in 1978 the use of the property as a tourist home, which had 12 rooms and 5 baths, became a legal non-conforming use. He noted that according to City records, the last utility bill sent to that property was August 2000 and the property had remained vacant since that time. Mr. Martin said the Comprehensive Plan identified this area as a Neighborhood Conservation Area, which are neighborhoods typically built prior to World War II and neighborhoods that have lots and structures that do not conform to current lot sizes and setbacks of the existing Zoning Ordinance. He added that if this rezoning is approved the property would become non-conforming in terms of setbacks on the front and side property line. Mr. Martin reminded the Commission that they would need to waive the 21-day submittal requirement of the proffers. He said the Planning Division recommends approval of the petition and noted in the report that the Division anticipated studying the older neighborhoods in depth in order to consider zoning changes to better facilitate the reuse and rehabilitation of the properties.

Ms. Laura Dupuy, Executive Director of the Lynchburg Neighborhood Development Foundation (LNDF), represented the petition. Ms. Dupuy said LNDF was the sponsor of the project, as well as partners in a tax credit project with a state wide non-profit housing provider. She said the ownership structure would be an entity called Central City Homes, L.P., located in Christiansburg, VA, and added that the LNDF would be the property manager in this project. Ms. Dupuy explained that the entire project consisted of nine buildings divided into twenty-three units located throughout various downtown neighborhoods. She continued by saying that this house would be divided into three units and would be restricted to low-income renters. She said the three lots were purchased from foreclosure and had been combined into two lots. Ms. Dupuy said that the tax credits for this nine-building rehabilitation project is approximately \$2 million, and it is expected that it will be an investment in neighborhoods where the private market would not normally want to be.

Commissioner Pulliam asked the square footage of the building and when it was last used as a boarding house.

Ms. Dupuy said she thought the house was approximately 4,000 square feet.

Mr. Martin said according to the City's records, the boarding house was last used in August 2000.

Commissioner Echols asked the condition of the building.

Ms. Dupuy said the building was in remarkably good condition and added that there had been very little vandalism. She said the building had not been cut up in ways that was detrimental to the structure, and noted that there were some very beautiful elements in the building.

Commissioner Pulliam asked if there was any reason, other than monetary, to develop the property into three units instead of two units. He said over the past years there had been an effort to get away from transforming these large houses into multi-family residences, and said he hated to see this structure go back to multi-family use. He added that he had received several phone calls and an e-mail in opposition to this project. Commissioner Pulliam said he could not support the petition for three units, but would support the petition if the request were amended for two units.

Ms. Dupuy said the three units in the structure did make the project more financially feasible without adding heavy density. She added that the empty lots on each side of the structure would help lessen the multi-family feel. Ms. Dupuy said she could not change the scope of the project nor alter the program. She said if this petition was not approved as requested then the entire nine-structure project would have to be cancelled. She noted that the tax credits had already been allocated and the organization would suffer a substantial penalty if they could not go ahead with their plans.

Chair Dahlgren asked if it was standard procedure to allocate tax credits before an approval was received. He also asked if she had spoken to neighbors in the area.

Ms. Dupuy responded by saying that when the property was purchased she did not realize that it needed to be rezoned. She added that allocating tax credits before a project was approved was not standard practice. Ms. Dupuy said she did send letters to property owners in the neighborhood. She said this was a neighborhood with some problems and they hoped that this project would begin a positive turn around of the area.

Chair Dahlgren asked Mr. Martin about the rezoning of the property including the vacant areas. He asked if the petitioner would be controlled by this rezoning if in the future they wanted to develop the lots.

Mr. Martin said the only property being rezoned with this petition was the parcel at 717 Madison and the parcel on the other side of the driveway. He said the other property would remain as currently zoned. He said if the petitioner wanted to change the use of this site, they would have to come back to the City with an amended proffer.

Chair Dahlgren said the work being done was admirable. However, he said, he struggled with the petition because he also received a lot of phone calls in opposition to the project. He said he would support the petition only because the City did not have an ordinance that defined the restrictions on these larger, older buildings.

Ms. Dupuy said the price of the house was very affordable, so they purchased it knowing that the money saved on the purchase price could be put back into the rehabilitation of the property.

Commissioner Moore asked about the set backs and a vegetative buffer. He said he liked the mix of landscape instead of rows of evergreens, but noted his concern with cars parking at the rear of the property and lights shining in the windows of neighbors' houses. He asked if there could be some type of buffer installed.

Mr. Martin said typically a vegetative buffer would be required. However, he said, instead of the buffer, the City had requested that additional landscaping be added for CPTED (Crime Prevention Through Education). He said the Commission could require that a proffer be added to include a buffer.

Ms. Dupuy said they did have a budget for landscaping and could install a buffer to hide the lights.

Commissioner Echols asked if the Fire Marshal had conducted a site visit of this property?

Ms. Dupuy said the Fire Marshal had not been through the property, but there had been no concerns in the TRC comments. She said the structure would be completely remodeled, so it would be inspected through all phases of the construction.

Commissioner Wilkins asked Ms. Dupuy if she would be willing to add a fourth proffer stating that a buffer would be planted to eliminate car lights.

Ms. Dupuy said she would be willing to add a fourth proffer, and added that they currently work with the police to review the exterior lighting around their homes for safety issues.

Mr. Martin said the proffer needed to be enforceable and very specific.

Commissioner Echols asked what would be done with the open land.

Ms. Dupuy said this lot had significant set back issues and would probably be left vacant. She said the lot would not be subject to rezoning.

Commissioner Moore said this was a great project and asked what else could be done with these large empty buildings. He added that he would like to see more of this type of revitalization. He said he liked the plan and the partnership of the various organizations.

Commissioner Pulliam said he lived near four similar projects. He said that over the past 20 years the buildings had deteriorate, and he was afraid that the same would happen with this project.

Commissioner Moore said in the past the City had made an effort to address these properties concerning management and/or property maintenance issues. He asked what was currently being done.

Mr. Martin said the City had a weed ordinance, an inoperative motor vehicle ordinance, and an illegal dumping ordinance that were enforced by the Neighborhood Services Division. He added that the Inspections Division had a derelict property maintenance program in which they worked with property owners to address code violations.

Commissioner Flint said one thing this group had going for it was its successful tract record. He said this petition was an improvement over letting the building continue to deteriorate.

Commissioner Echols said although he was not enthusiastic about turning the building into apartments, he would like to see the project saved.

Mr. Martin read for the record a fourth proffer submitted by Ms. Dupuy adding a buffer around the back parking area. The proffer said:

“The rear of the lot will contain sufficient vegetative buffer to block head lights shining into neighboring properties consistent with CPTED concerns.”

After discussion, Commissioner Moore made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

“That the Planning Commission waive the 21 – day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Central City Homes, L.P. for the property at 717 Madison Street.”

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins	6
NOES:		0
ABSTENTIONS:		0

After discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of Central City Homes, L.P. to rezone .296 acres at 717 Madison Street from R-2, Single-Family Residential District, to R-4 (Conditional), Multi-Family Residential District, to allow the rehabilitation and use of the property for three (3) apartment units.”

AYES:	Dahlgren, Echols, Flint, Moore, Wilkins	5
NOES:	Pulliam	1
ABSTENTIONS:		0







# CENTRAL CITY HOMES, L.P.

717 Madison Street

Vol. Map # 024-38-008/011

Rezoning Request from R-2 to R-4

Representative: Laura Dupuy

MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property



200 ft Radius

